REMARKS/ARGUMENTS

Reconsideration of this application in light of the above amendments and following comments is courteously solicited.

The Everett reference shows an insert which is configured and dimensioned so as to be received in the formed opening of the brake pad 26. The portion 80 is not secured to a brake lining. In this regard, it should be noted that the caps 7 of Krupka are welded to the support for holding the lining on the support. The insert of Everett is elastomeric material and is meant to be within a braking pad. The purpose and function of the insert 30 of Everett is totally different from the securing element of the Krupka reference. There is absolutely no reason for one to look to the teaching of an elastomeric brake pad insert and combining that with the primary and secondary references other than Applicants' instant disclosure. Accordingly, it is submitted that the Examiner's position is untenable and belies the concept of the whole clause of 35 U.S.C. 103.

Applicant respectfully requests the Examiner to reconsider his rejection and issue a notice of allowance based on the claims as currently pending.

An earnest and thorough attempt has been made by the undersigned to resolve the outstanding issues in this case and place same in condition for allowance. If the Examiner has any questions or feels that a telephone or personal interview would be helpful in resolving any outstanding issues which remain in this application after consideration of this amendment, the Examiner is courteously invited to telephone the undersigned and the same would be gratefully appreciated.

If any fees are required in connection with this case, it is respectfully requested that they be charged to Deposit

Account No. 02-0184.

                                    Respectfully submitted,

                                    By /Gregory P. LaPointe #28395/
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                                    Date: April 22, 2010